

Public Comment

SEAC Business Meeting

January 6, 2021

Good evening. My name is Melissa Waugh. I am the parent of two LCPS students with IEPs, and I am a special education attorney. I have been approached by a Loudoun Co homeschool parent regarding LCPS' failure to comply with the federal and Virginia Consultation Regulations (34 C.F.R. § 300.134, *et. seq.*; 8VAC20-81-150(C)(5)) for set-aside funds. These funds are mandated to provide private school children with disabilities who reside in Loudoun County (which includes homeschool or hometutored students---8VAC20-81-150(C)(1)(a)(3) & (4)), with special education and related services. I submitted this statement early, and I believe it is currently posted on the SEAC Wiki page. My written statement includes citations and copies of the laws I am referring to tonight. Pursuant to these federal and state regulations, private school representatives and representatives of parents of private school children (which includes homeschool and hometutored kids) are to be **consulted** "during the design and development of special education and related services" for these children. **"Decisions about the services that will be provided to [these children]" are to be made in accordance with this consultation process.** 34 C.F.R. § 300.136 – 300.137; 8VAC20-81-150(C)(6)(b). In addition, consultation shall include:

- 1) How the process will operate throughout the school year to ensure that [these children] can meaningfully participate in special education and related services;
- 2) How, where, and by whom special education and related services will be provided for [these children];
- 3) The types of services, including direct services and alternate service delivery mechanisms;
- 4) How special education and related services will be apportioned if funds are insufficient to serve all [of these children]; and
- 5) How and when those decisions will be made, including how parents, teachers and private school officials will be informed of the process.

8VAC20-81-150(C)(5)(a).

I am requesting that SEAC confirm with LCPS whether or not it is in compliance with these regulations, and request from LCPS documentation of how parents were informed of this process, when the consultation occurred, and a copy of the written affirmation signed by these representatives that they participated in this process, as required by law (8VAC20-81-150(C)(5)(c)). According to Virginia regulations, SEAC is to advise LCPS on the needs of all children with disabilities in Loudoun County, including those who are homeschooled, hometutored, or in private schools. 8VAC20-81-230(D)(2)(a). SEAC is also charged by Virginia regulation to "review the policies and procedures for the provision of special education and related services **prior** to submission to the local school board." 8VAC20-81-230(D)(2)(e). This would include policies and procedures related to set-aside funds, and SEAC should ensure that it is able to perform this regulatory function prior to the submission of any proposals related to set-aside funds to the school board for approval. Thank you for your attention to this matter.



(3) The number of children served.

(Approved by the Office of Management and Budget under control numbers 1820-0030 and 1820-0600)

(Authority: 20 U.S.C. 1412(a)(10)(A)(i))

**§ 300.133 Expenditures.**

(a) *Formula.* To meet the requirement of § 300.132(a), each LEA must spend the following on providing special education and related services (including direct services) to parentally-placed private school children with disabilities:

(1) For children aged 3 through 21, an amount that is the same proportion of the LEA's total subgrant under section 611(f) of the Act as the number of private school children with disabilities aged 3 through 21 who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, is to the total number of children with disabilities in its jurisdiction aged 3 through 21.

(2)(i) For children aged three through five, an amount that is the same proportion of the LEA's total subgrant under section 619(g) of the Act as the number of parentally-placed private school children with disabilities aged three through five who are enrolled by their parents in a private, including religious, elementary school located in the school district served by the LEA, is to the total number of children with disabilities in its jurisdiction aged three through five.

(ii) As described in paragraph (a)(2)(i) of this section, children aged three through five are considered to be parentally-placed private school children with disabilities enrolled by their parents in private, including religious, elementary schools, if they are enrolled in a private school that meets the definition of elementary school in § 300.13.

(3) If an LEA has not expended for equitable services all of the funds described in paragraphs (a)(1) and (a)(2) of this section by the end of the fiscal year for which Congress appropriated the funds, the LEA must obligate the remaining funds for special education and related services (including direct services) to parentally-placed private school children with disabilities during

a carry-over period of one additional year.

(b) *Calculating proportionate amount.* In calculating the proportionate amount of Federal funds to be provided for parentally-placed private school children with disabilities, the LEA, after timely and meaningful consultation with representatives of private schools under § 300.134, must conduct a thorough and complete child find process to determine the number of parentally-placed children with disabilities attending private schools located in the LEA. (See appendix B for an example of how proportionate share is calculated).

(c) *Annual count of the number of parentally-placed private school children with disabilities.* (1) Each LEA must—

(i) After timely and meaningful consultation with representatives of parentally-placed private school children with disabilities (consistent with § 300.134), determine the number of parentally-placed private school children with disabilities attending private schools located in the LEA; and

(ii) Ensure that the count is conducted on any date between October 1 and December 1, inclusive, of each year.

(2) The count must be used to determine the amount that the LEA must spend on providing special education and related services to parentally-placed private school children with disabilities in the next subsequent fiscal year.

(d) *Supplement, not supplant.* State and local funds may supplement and in no case supplant the proportionate amount of Federal funds required to be expended for parentally-placed private school children with disabilities under this part.

(Approved by the Office of Management and Budget under control number 1820-0030)

(Authority: 20 U.S.C. 1412(a)(10)(A))

**§ 300.134 Consultation.**

To ensure timely and meaningful consultation, an LEA, or, if appropriate, an SEA, must consult with private school representatives and representatives of parents of parentally-



### § 300.135

placed private school children with disabilities during the design and development of special education and related services for the children regarding the following:

(a) Child find. The child find process, including—

(1) How parentally-placed private school children suspected of having a disability can participate equitably; and

(2) How parents, teachers, and private school officials will be informed of the process.

(b) *Proportionate share of funds.* The determination of the proportionate share of Federal funds available to serve parentally-placed private school children with disabilities under § 300.133(b), including the determination of how the proportionate share of those funds was calculated.

(c) *Consultation process.* The consultation process among the LEA, private school officials, and representatives of parents of parentally-placed private school children with disabilities, including how the process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services.

(d) *Provision of special education and related services.* How, where, and by whom special education and related services will be provided for parentally-placed private school children with disabilities, including a discussion of—

(1) The types of services, including direct services and alternate service delivery mechanisms; and

(2) How special education and related services will be apportioned if funds are insufficient to serve all parentally-placed private school children; and

(3) How and when those decisions will be made;

(e) *Written explanation by LEA regarding services.* How, if the LEA disagrees with the views of the private school officials on the provision of services or the types of services (whether provided directly or through a contract), the LEA will provide to the private school officials a written explanation of the reasons why the LEA chose not to pro-

### 34 CFR Ch. III (7–1–12 Edition)

vide services directly or through a contract.

(Approved by the Office of Management and Budget under control numbers 1820–0030 and 1820–0600)

(Authority: 20 U.S.C. 1412(a)(10)(A)(iii))

#### § 300.135 Written affirmation.

(a) When timely and meaningful consultation, as required by § 300.134, has occurred, the LEA must obtain a written affirmation signed by the representatives of participating private schools.

(b) If the representatives do not provide the affirmation within a reasonable period of time, the LEA must forward the documentation of the consultation process to the SEA.

(Approved by the Office of Management and Budget under control numbers 1820–0030 and 1820–0600)

(Authority: 20 U.S.C. 1412(a)(10)(A)(iv))

#### § 300.136 Compliance.

(a) *General.* A private school official has the right to submit a complaint to the SEA that the LEA—

(1) Did not engage in consultation that was meaningful and timely; or

(2) Did not give due consideration to the views of the private school official.

(b) *Procedure.* (1) If the private school official wishes to submit a complaint, the official must provide to the SEA the basis of the noncompliance by the LEA with the applicable private school provisions in this part; and

(2) The LEA must forward the appropriate documentation to the SEA.

(3)(i) If the private school official is dissatisfied with the decision of the SEA, the official may submit a complaint to the Secretary by providing the information on noncompliance described in paragraph (b)(1) of this section; and

(ii) The SEA must forward the appropriate documentation to the Secretary.

(Approved by the Office of Management and Budget under control numbers 1820–0030 and 1820–0600)

(Authority: 20 U.S.C. 1412(a)(10)(A)(v))



**§ 300.137 Equitable services determined.**

(a) *No individual right to special education and related services.* No parentally-placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.

(b) *Decisions.* (1) Decisions about the services that will be provided to parentally-placed private school children with disabilities under §§ 300.130 through 300.144 must be made in accordance with paragraph (c) of this section and § 300.134(d).

(2) The LEA must make the final decisions with respect to the services to be provided to eligible parentally-placed private school children with disabilities.

(c) *Services plan for each child served under §§ 300.130 through 300.144.* If a child with a disability is enrolled in a religious or other private school by the child's parents and will receive special education or related services from an LEA, the LEA must—

(1) Initiate and conduct meetings to develop, review, and revise a services plan for the child, in accordance with § 300.138(b); and

(2) Ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, the LEA shall use other methods to ensure participation by the religious or other private school, including individual or conference telephone calls.

(Approved by the Office of Management and Budget under control number 1820-0030)

(Authority: 20 U.S.C. 1412(a)(10)(A))

[71 FR 46753, Aug. 14, 2006, as amended at 72 FR 61306, Oct. 30, 2007]

**§ 300.138 Equitable services provided.**

(a) *General.* (1) The services provided to parentally-placed private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools, except that private elementary school and secondary school teachers who are providing equitable services to parentally-placed private school children with dis-

abilities do not have to meet the highly qualified special education teacher requirements of § 300.18.

(2) Parentally-placed private school children with disabilities may receive a different amount of services than children with disabilities in public schools.

(b) *Services provided in accordance with a services plan.* (1) Each parentally-placed private school child with a disability who has been designated to receive services under § 300.132 must have a services plan that describes the specific special education and related services that the LEA will provide to the child in light of the services that the LEA has determined, through the process described in §§ 300.134 and 300.137, it will make available to parentally-placed private school children with disabilities.

(2) The services plan must, to the extent appropriate—

(i) Meet the requirements of § 300.320, or for a child ages three through five, meet the requirements of § 300.323(b) with respect to the services provided; and

(ii) Be developed, reviewed, and revised consistent with §§ 300.321 through 300.324.

(c) *Provision of equitable services.* (1) The provision of services pursuant to this section and §§ 300.139 through 300.143 must be provided:

(i) By employees of a public agency; or

(ii) Through contract by the public agency with an individual, association, agency, organization, or other entity.

(2) Special education and related services provided to parentally-placed private school children with disabilities, including materials and equipment, must be secular, neutral, and nonideological.

(Approved by the Office of Management and Budget under control number 1820-0030)

(Authority: 20 U.S.C. 1412(a)(10)(A)(vi))

**§ 300.139 Location of services and transportation.**

(a) *Services on private school premises.* Services to parentally-placed private school children with disabilities may be provided on the premises of private, including religious, schools, to the extent consistent with law.



### § 300.140

(b) *Transportation*—(1) *General*. (i) If necessary for the child to benefit from or participate in the services provided under this part, a parentally-placed private school child with a disability must be provided transportation—

(A) From the child's school or the child's home to a site other than the private school; and

(B) From the service site to the private school, or to the child's home, depending on the timing of the services.

(ii) LEAs are not required to provide transportation from the child's home to the private school.

(2) *Cost of transportation*. The cost of the transportation described in paragraph (b)(1)(i) of this section may be included in calculating whether the LEA has met the requirement of § 300.133.

(Approved by the Office of Management and Budget under control number 1820-0030)

(Authority: 20 U.S.C. 1412(a)(10)(A))

### § 300.140 Due process complaints and State complaints.

(a) *Due process not applicable, except for child find*. (1) Except as provided in paragraph (b) of this section, the procedures in §§ 300.504 through 300.519 do not apply to complaints that an LEA has failed to meet the requirements of §§ 300.132 through 300.139, including the provision of services indicated on the child's services plan.

(b) *Child find complaints—to be filed with the LEA in which the private school is located*. (1) The procedures in §§ 300.504 through 300.519 apply to complaints that an LEA has failed to meet the child find requirements in § 300.131, including the requirements in §§ 300.300 through 300.311.

(2) Any due process complaint regarding the child find requirements (as described in paragraph (b)(1) of this section) must be filed with the LEA in which the private school is located and a copy must be forwarded to the SEA.

(c) *State complaints*. (1) Any complaint that an SEA or LEA has failed to meet the requirements in §§ 300.132 through 300.135 and 300.137 through 300.144 must be filed in accordance with the procedures described in §§ 300.151 through 300.153.

(2) A complaint filed by a private school official under § 300.136(a) must be

### 34 CFR Ch. III (7–1–12 Edition)

filed with the SEA in accordance with the procedures in § 300.136(b).

(Approved by the Office of Management and Budget under control number 1820-0030)

(Authority: 20 U.S.C. 1412(a)(10)(A))

### § 300.141 Requirement that funds not benefit a private school.

(a) An LEA may not use funds provided under section 611 or 619 of the Act to finance the existing level of instruction in a private school or to otherwise benefit the private school.

(b) The LEA must use funds provided under Part B of the Act to meet the special education and related services needs of parentally-placed private school children with disabilities, but not for meeting—

(1) The needs of a private school; or

(2) The general needs of the students enrolled in the private school.

(Approved by the Office of Management and Budget under control number 1820-0030)

(Authority: 20 U.S.C. 1412(a)(10)(A))

### § 300.142 Use of personnel.

(a) *Use of public school personnel*. An LEA may use funds available under sections 611 and 619 of the Act to make public school personnel available in other than public facilities—

(1) To the extent necessary to provide services under §§ 300.130 through 300.144 for parentally-placed private school children with disabilities; and

(2) If those services are not normally provided by the private school.

(b) *Use of private school personnel*. An LEA may use funds available under sections 611 and 619 of the Act to pay for the services of an employee of a private school to provide services under §§ 300.130 through 300.144 if—

(1) The employee performs the services outside of his or her regular hours of duty; and

(2) The employee performs the services under public supervision and control.

(Approved by the Office of Management and Budget under control number 1820-0030)

(Authority: 20 U.S.C. 1412(a)(10)(A))

### § 300.143 Separate classes prohibited.

An LEA may not use funds available under section 611 or 619 of the Act for



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- d. The parent(s) had not received notice of the notice requirement in this section.
- C. Parentally placed private school children with disabilities. The provisions of this section apply to children with disabilities who are enrolled by their parent(s) in private schools.
1. The following definitions are applicable for purposes of this subsection.
    - a. The term "private school" includes:
      - (1) Private, denominational, or parochial schools in accordance with § 22.1-254 of the Code of Virginia that meet the definition of elementary school or secondary school in subdivision 1 of this subsection;
      - (2) Preschool facilities that meet the definition of elementary school or secondary school in subdivision 1 of this subsection;
      - (3) Students who are home-tutored in accordance with § 22.1-254 of the Code of Virginia; or
      - (4) Students who receive home instruction in accordance with § 22.1-254.1 of the Code of Virginia.
    - b. The term "elementary school" means a nonprofit institutional day or residential school, including a public elementary charter school that provides elementary education, as determined under state law. (34 CFR 300.13)
    - c. The term "secondary school" means a nonprofit institutional day or residential school, including a public secondary charter school that provides secondary education, as determined under state law, except that it does not include any education beyond grade 12. (34 CFR 300.36)
  2. Child find. (§ 22.1-254.1 of the Code of Virginia; 34 CFR 300.130, 34 CFR 300.131(a) and (b), 34 CFR 300.132(a) and 34 CFR 300.134(a))
    - a. Each school division shall locate, identify, and evaluate all children with disabilities who are parentally placed in private schools located in the school division. The activities undertaken to carry out this responsibility for these children shall be comparable to activities undertaken for children with disabilities in public schools.
    - b. Each local school division shall consult with appropriate representatives of the private schools and representatives of parents of parentally placed private school children with disabilities on how to carry out the child find activities in order to conduct thorough and complete child find activities, including:
      - (1) How parentally placed private school children suspected of having a disability can participate equitably; and
      - (2) How parents, teachers, and private school officials will be informed of the process.
    - c. The child find process shall be designed to ensure:
      - (1) The equitable participation of parentally placed private school children; and
      - (2) An accurate count of these children.
  3. Services plan. Each local school division shall ensure that a services plan is developed and implemented for each parentally placed private school child with a disability who has been designated to receive special education and related services under this part. (34 CFR 300.132(b))
  4. Expenditures. (34 CFR 300.133)
    - a. To meet the requirement of the Act, each local school division shall spend the following on providing special education and related services to private school children with disabilities:
      - (1) For children, aged three to 21, inclusive, an amount that is the same proportion of the local school division's total subgrant under § 1411 of the Act as the number of private school children with disabilities, aged three to 21, who are enrolled by their parents in private schools located in the school division served by the school division, is to the total children with disabilities in its jurisdiction, aged three to 21; and
      - (2) For children, aged three to five, inclusive, an amount that is the same proportion of the local school division total subgrant under § 1419 of the Act as the number of privately placed school children with disabilities, aged three to five, who are enrolled by their parents in a private school located in the school division served by the school division, is to the total number of children with disabilities in its jurisdiction, aged three to five.
      - (3) If a local school division has not expended for equitable services all of the funds by the end of the fiscal year for which Congress appropriated the funds, the local school division shall obligate the remaining funds for special education and related services, including direct services, to parentally placed private school children with disabilities during a carry-over period of one additional year.
      - (4) Local educational agencies may supplement, but not supplant, the proportionate share amount of federal funds required to be expended in accordance with this subdivision.
    - b. In calculating the proportionate amount of federal funds to be provided for parentally placed private school children with disabilities, the local school division, after timely and meaningful consultation with representatives of private schools under this section, shall conduct a thorough and complete child find process to determine the number of parentally placed children with disabilities attending private schools located in the local school division.
    - c. After timely and meaningful consultation with representatives of parentally placed private school children with disabilities, the local school division



- shall determine the number of parentally placed private school children with disabilities attending private schools located in the local school division, and ensure that the count is conducted on a date between October 1 and December 1 of each year as determined by the Superintendent of Public Instruction or designee. The child count shall be used to determine the amount that the local school division shall spend on providing special education and related services to parentally placed private school children with disabilities in the next subsequent fiscal year.
- d. Expenditures for child find activities, including evaluation and eligibility, described in 8VAC20-81-50 through 8VAC20-81-80, may not be considered in determining whether the local school division has met the expenditure requirements of the Act.
  - e. Local school divisions are not prohibited from providing services to parentally placed private school children with disabilities in excess of those required by this section.
5. Consultation.
    - a. The local school division shall consult with private school representatives and representatives of parents of parentally placed private school children with disabilities during the design and development of special education and related services for the children. This includes: (34 CFR 300.134(a), (c), and (d))
      - (1) How the process will operate throughout the school year to ensure that parentally placed children with disabilities identified through the child find process can meaningfully participate in special education and related services;
      - (2) How, where, and by whom special education and related services will be provided for parentally placed private school children with disabilities;
      - (3) The types of services, including direct services and alternate service delivery mechanisms;
      - (4) How special education and related services will be apportioned if funds are insufficient to serve all parentally placed private school children; and
      - (5) How and when those decisions will be made, including how parents, teachers and private school officials will be informed of the process.
    - b. If the local school division disagrees with the views of the private school officials on the provision of services or the types of services, whether provided directly or through a contract, the local school division shall provide to the private school officials a written explanation of the reasons why the local school division chose not to provide services directly or through a contract. (34 CFR 300.134(e))
    - c. Following consultation, the local school division shall obtain a written affirmation signed by the representatives of participating private schools. If the representatives do not provide the affirmation within a reasonable period of time, the local school division shall forward the documentation of the consultation to the Virginia Department of Education. (34 CFR 300.135)
    - d. A private school official has the right to submit a complaint to the Virginia Department of Education that the local school division: (34 CFR 300.136)
      - (1) Did not engage in consultation that was meaningful and timely; or
      - (2) Did not give due consideration to the views of the private school official.
    - e. The private school official shall provide to the Virginia Department of Education the basis of the noncompliance by the local school division and the appropriate documentation. (34 CFR 300.136)
      - (1) If the private school official is dissatisfied with the decision of the Virginia Department of Education, the official may submit a complaint to the Secretary of Education, United States Department of Education by providing the information related to the noncompliance.
      - (2) The Virginia Department of Education shall forward the appropriate documentation to the U.S. Secretary of Education.
  6. Equitable services determined. (34 CFR 300.137)
    - a. No parentally placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.
    - b. Decisions about the services that will be provided to the parentally placed private school children with disabilities are made in accordance with the consultation process under subdivision 5 of this subsection and a services plan.
    - c. The local school division shall make the final decisions with respect to the services to be provided to eligible parentally placed private school children with disabilities.
    - d. The local school division shall:
      - (1) Initiate and conduct meetings to develop, review, and revise a services plan for the child; and
      - (2) Ensure that a representative of the private school attends each meeting. If the representative cannot attend, the local school division shall use other methods to ensure participation by the private school, including individual or conference telephone calls.
  7. Services provided. (34 CFR 300.138 and 34 CFR 300.132(b))
    - a. The services provided to parentally placed private school children with disabilities shall be provided by personnel meeting the same standards as personnel providing services in the public schools, except that private elementary school and secondary school teachers who are providing equitable services to these children do not have to meet the requirements for highly qualified special education teachers.



- b. Parentally placed private school children with disabilities may receive a different amount of services than children with disabilities in public schools.
  - c. No parentally placed private school child with a disability is entitled to any service or to any amount of a service the child would receive if enrolled in a public school.
  - d. Services provided in accordance with a services plan.
    - (1) Each parentally placed private school child with a disability who has been designated to receive services under this subsection shall have a services plan that describes the specific special education and related services that the local school division will provide to the child in light of the services that the local school division has determined it will make available to private school children with disabilities.
    - (2) The services plan, to the extent appropriate, shall meet the requirements for the content of the IEP with respect to the services provided, and be developed, reviewed, and revised consistent with the requirements of this chapter for IEPs.
  - e. The services shall be provided:
    - (1) By employees of a local school division; or
    - (2) Through contract by the local school division with an individual, association, agency, organization, or other entity.
  - f. Special education and related services provided to parentally placed private school children with disabilities, including materials and equipment, shall be secular, neutral, and nonideological.
8. Location of services. Services provided to a private school child with a disability may be provided on site at the child's private school, including a religious school, to the extent consistent with law. (34 CFR 300.139(a))
9. Transportation. (34 CFR 300.139(b))
  - a. If necessary for the child to benefit from or participate in the services provided under this part, a parentally placed private school child with a disability shall be provided transportation:
    - (1) From the child's school or the child's home to a site other than the private school; and
    - (2) From the service site to the private school or to the child's home depending on the timing of the services.
  - b. Local school divisions are not required to provide transportation from the child's home to the private school.
  - c. The cost of the transportation described in this subsection may be included in calculating whether the local school division has met the requirement of this section.
10. Procedural safeguards, due process, and complaints. (34 CFR 300.140)
  - a. Due process inapplicable. The procedures relative to procedural safeguards, consent, mediation, due process hearings, attorneys' fees, and surrogate parents do not apply to complaints that a local school division has failed to meet the requirements of this subsection, including the provision of services indicated on the child's services plan.
  - b. Due process applicable. The procedures relative to procedural safeguards, consent, mediation, due process hearings, attorneys' fees, and surrogate parents do apply to complaints that a local school division has failed to meet the requirements of child find (including the requirements of referral for evaluation, evaluation, and eligibility) for parentally placed private school children with disabilities.
  - c. State complaints. Complaints that the Virginia Department of Education or local school division has failed to meet the requirements of this section may be filed under the procedures in 8VAC20-81-200.
  - d. The dispute resolution options described in subdivisions 10 b and 10 c of this subsection apply to the local educational agency in which the private school is located. (34 CFR 300.140(b)(2))
11. Separate classes prohibited. A local school division may not use funds available under the Act for classes that are organized separately on the basis of school enrollment or religion of the students if (i) the classes are at the same site and (ii) the classes include students enrolled in public schools and students enrolled in private schools. (34 CFR 300.143)
12. Requirement that funds not benefit a private school. A local school division may not use funds provided under the Act to finance the existing level of instruction in a private school or to otherwise benefit the private school. The local school division shall use funds provided under the Act to meet the special education and related services needs of parentally placed private school children with disabilities, but not for the needs of a private school or the general needs of the students enrolled in the private school. (34 CFR 300.141)
13. Use of public school personnel. A local school division may use funds available under the Act to make public school personnel available in nonpublic facilities to the extent necessary to provide services under this section for parentally placed private school children with disabilities and if those services are not normally provided by the private school. (34 CFR 300.142(a))
14. Use of private school personnel. A local school division may use funds available under the Act to pay for the services of an employee of a private school to provide services to a parentally placed private school child, if the employee performs the services outside of the employee's regular hours of duty and the employee performs the services under public supervision and control. (34 CFR 300.142(b))



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| <ul style="list-style-type: none"> <li>a. A majority of the committee shall be parents of children with disabilities or individuals with disabilities.</li> <li>b. The committee shall include one teacher.</li> <li>c. Additional local school division personnel shall serve only as consultants to the committee.</li> </ul>   | <p>The director shall be responsible for the administration of programs and services that are approved by the joint board.</p>  |
| <ul style="list-style-type: none"> <li>2. The functions of the local advisory committee shall be as follows:           <ul style="list-style-type: none"> <li>a. Advise the local school division of needs in the education of children with disabilities;</li> <li>b. Participate in the development of priorities and strategies for meeting the identified needs of children with disabilities;</li> <li>c. Submit periodic reports and recommendations regarding the education of children with disabilities to the division superintendent for transmission to the local school board;</li> <li>d. Assist the local school division in interpreting plans to the community for meeting the special needs of children with disabilities for educational services;</li> <li>e. Review the policies and procedures for the provision of special education and related services prior to submission to the local school board; and</li> <li>f. Participate in the review of the local school division's annual plan, as outlined in subdivision B2 of this section.</li> </ul> </li> <li>3. Public notice shall be published annually listing the names of committee members and including a description of ways in which interested parties may express their views to the committee.</li> <li>4. Committee meetings shall be held at least four times in a school year and shall be open to the public.</li> </ul> | <ul style="list-style-type: none"> <li>E. Transition from infant and toddler programs to early childhood special education programs. (34 CFR 300.124)           <ul style="list-style-type: none"> <li>1. Children who are participating in early intervention programs under Part C of the Act and who will participate in preschool programs under Part B shall be afforded a smooth and effective transition to the preschool programs in a manner consistent with the Virginia lead agency's Part C early intervention policies and procedures.</li> <li>2. The local school division shall participate in transition planning conferences when notified by the designated local Part C early intervention agency (not less than 90 days and not more than nine months before the child is eligible for preschool services), in accordance with § 1437(a)(9) of the Act, and its federal implementing regulations.</li> <li>3. A child with a disability whose second birthday falls on or before September 30 may begin attending Part B preschool programs at the start of the school year if:               <ul style="list-style-type: none"> <li>a. The child meets the Part B eligibility criteria; and</li> <li>b. An IEP has been developed and signed by the parent(s).</li> </ul> </li> </ul> </li> <li>G. Programs for children with disabilities in regional or local jails. (34 CFR 300.101 and 34 CFR 300.102)           <ul style="list-style-type: none"> <li>1. Each local school division with a regional or local jail in its jurisdiction shall be responsible for the provision of special education and related services to all eligible children with disabilities incarcerated in the jail for more than 10 calendar days.</li> <li>2. Each local school division with a regional or local jail in its jurisdiction shall establish an interagency agreement with the sheriff or jail administrator responsible for the regional or local jail. The interagency agreement shall address staffing and security issues associated with the provision of special education and related services in the jail. A copy of any revisions to this agreement shall be submitted with the annual plan specified in subsection B of this section.</li> </ul> </li> </ul> |
| <ul style="list-style-type: none"> <li>E. Regional special education programs. (§ 22.1-218 of the Code of Virginia; Jointly Owned and Operated Schools and Jointly Operated Programs (8VAC20-280))           <ul style="list-style-type: none"> <li>1. If it becomes necessary for local school divisions to develop regional programs to serve children with disabilities residing within their jurisdiction, such regional programs shall be provided in accordance with the least restrictive environment requirements specified in 8VAC20-81-130.</li> <li>2. If local school divisions elect to participate in an approved regional program for the provision of special education and related services for certain children with disabilities, a joint board shall be established to manage and control the jointly owned or operated program, center, or school. Establishment of the joint board and administration of the jointly owned and operated program shall be conducted in accordance with the Virginia Board of Education regulations governing such programs.</li> <li>3. Each joint board shall appoint a qualified director who shall be the administrative head of the regional program.</li> </ul> </li> </ul>   | <ul style="list-style-type: none"> <li>H. Each local educational agency shall cooperate with the U.S. Department of Education's efforts under § 1308 of the ESEA to ensure the linkage of records pertaining to migratory children with disabilities for the purpose of electronically exchanging, among the states, health and educational information regarding those children. (34 CFR 300.213)</li> <li>I. Early Intervening Services. Each local educational agency shall implement early intervening services in accordance with the provisions of 8VAC20-81-260 H. (34 CFR 300.226)</li> <li>J. Access to instructional materials.</li> </ul>  |
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